

REMARKS

Examiner has rejected Claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by Willis (US 4,606,733). In response thereto, Applicant has amended Claims 1, 2, 3 and 4 and respectfully traverses Examiner's rejection.

As Examiner correctly points out, Willis teaches, in regards to claim 1, at least one striking plate member and at least one striking assembly, in regards to claim 3, a frictional surface, in regards to claim 4, a cavity formed on a top side of the plate member and an acoustic chamber, and in regards to claim 6, at least one acoustic channel formed on a top side of the at least one plate member. However, Applicant respectfully takes the position that Willis does not teach a game call comprising a tube, "wherein a sliding member is positioned within said tube, wherein a ... striking plate is disposed on the bottom of said sliding member, and wherein said ... striking plate is positioned to frictionally engage a top side of a striking block." See Claim 1, currently amended. Therefore, per Examiner's suggestion, Applicant has incorporated such allowable subject matter into amended Claim 1; i.e., Applicant has cancelled Claims 7 and 9 and has included the limitations of same into amended Claim 1. Moreover, Applicant respectfully asserts that because underlying Independent Claim 1 has been distinguished from Willis by the

amendment hereinabove, Applicant believes that Examiner's rejections regarding depending Claims 2 - 6 are now moot.

In addition, regarding claim 2, Applicant respectfully believes that Willis does not teach a striking plate that is disposed on the bottom of the plate member. As shown in FIG. 3 of Applicant's invention, the striking plate (42) is affixed to the bottom of the striking plate member (20). Conversely, as displayed in FIGS. 3 and 5 of the Willis patent, the Willis device discloses a game call that does not have a striking plate affixed to the bottom thereof. Rather, the striking plate (22) of Willis is situated within the game call device, just above the floor (24) of the box (10).

It is further noted that, regarding claim 5, Applicant respectfully believes that the cavity of Willis does not function to receive and removably attach the plate member to the assembly. As more clearly shown in FIGS. 1-4 of Applicant's invention, the striking plate member (20) possesses a cavity (32), wherein the cavity (32) is adapted to receive and removably secure the striking assembly (120) therewithin. Applicant respectfully asserts that Willis does not teach such a cavity. More specifically, as Examiner correctly points out, Willis discloses an acoustic chamber (26) that is situated towards the bottom of the game call; however, such

chamber does not function to receive and/or removably secure anything therewithin.

Therefore, Applicant respectfully believes that the above features distinguish Applicant's device from that of the cited art, and that the foregoing amendments place rejected Claim 1, and Claims 2-6 depending therefrom, in condition for allowance.

Furthermore, Examiner has rejected Claims 1-5 and 7 under 35 U.S.C. § 102(b) as being anticipated by Butler (US 5,562,521). In response thereto, Applicant has amended Claims 1 - 4, cancelled Claim 7, and respectfully traverses Examiner's rejection.

As Examiner correctly points out, Butler teaches, in regards to claim 2, a striking plate disposed on the bottom of the plate member, in regards to claim 3, a frictional surface, in regards to claim 4, a cavity formed on a top side of the plate member and an acoustic chamber, and in regards to claim 7, a tube to amplify sounds. However, Applicant respectfully takes the position that Butler does not teach a game call comprising a tube having a sliding member disposed therewithin, "wherein a ... striking plate is disposed on the bottom of said sliding member, and wherein said ... striking plate is positioned to frictionally engage a top side of a striking block." See Claim 1, currently amended.

Therefore, per Examiner's suggestion, Applicant has incorporated such allowable subject matter into amended Claim 1; i.e., Applicant has cancelled Claims 7 and 9 and has included the limitations of same into amended Claim 1. Moreover, Applicant respectfully asserts that because underlying Independent Claim 1 has been distinguished from Butler by the amendment hereinabove, Applicant believes that Examiner's rejections regarding depending Claims 2 - 5, and 7 are now moot.

In addition, regarding claim 1, Applicant respectfully believes that Butler does not teach a game call comprising at least one striking plate member *and at least one striking assembly*. As shown in FIGS. 1-4 and as explained in the specification of Applicant's invention, Applicant's device comprises a striking plate member (20) and a striking assembly (120), wherein the striking plate member (20) possesses a striking plate affixed to the bottom side thereof to provide a frictional surface for contacting a striking stick. Applicant concedes that the general features of the striking plate member (20) are disclosed by Butler, wherein Applicant's striking plate member (20) is somewhat analogous to Butler's call portion (12), and wherein Applicant's striking plate (42) is somewhat analogous to Butler's slate disk (20). More importantly, however, Butler fails to disclose an apparatus that is similar to Applicant's

striking assembly (120). More specifically, Butler fails to teach a tube having a sliding member (170), wherein a striking plate (206) is affixed to a bottom side (194) of the sliding member (170), and wherein the striking plate (170) is manually slid over a stationary striking block (150).

It is further noted that, regarding claim 5, Applicant respectfully believes that the cavity of Butler does not function to receive and removably attach the plate member to the *assembly*. As more fully described in the preceding paragraph, Butler does not teach a striking assembly (120), and thus, cannot teach a cavity for receiving a striking assembly (120) therewithin. Applicant admits that Butler teaches a game call having a cavity, however, such cavity functions to receive a dome-shaped disk (18) therewithin, and not the striking assembly (120) of Applicant's device.

Therefore, Applicant respectfully believes that the above features distinguish Applicant's device from that of the cited art, and that the foregoing amendments place rejected Claim 1, and Claims 2-5 and 7 depending therefrom, in condition for allowance.

Additionally, Examiner has rejected Claims 12, 13 and 18-25 under 35 U.S.C. § 102(b) as being anticipated by Funk (US 4,041,639).

In response thereto, Applicant has cancelled claim 19, amended

Claims 12, 13, 18, and 20-25, and respectfully traverses Examiner's rejection.

As Examiner correctly points out, Funk teaches, in regards to claim 12, at least one striking plate member, at least one striking assembly, and at least one elastic retention member, and in regards to claim 13, an acoustic tube. However, Applicant respectfully takes the position that Funk does not teach a game call comprising a tube having a sliding member disposed therewithin, "wherein a ... striking plate is disposed on the bottom of said sliding member, wherein a first end of ... at least one elastic retention member is attached to a bottom inner wall of said tube, and wherein a second end of said at least one elastic retention member is attached to said sliding member." See Claim 12, currently amended.

Therefore, per Examiner's suggestion, Applicant has incorporated such allowable subject matter into amended Claim 12, wherein Applicant has cancelled Claims 14 and 15, and wherein Applicant has included the limitations of same into amended Claim 12. Moreover, Applicant respectfully asserts that because underlying Independent Claim 12 has been distinguished from Funk by the amendment hereinabove, Applicant believes that Examiner's rejection regarding depending Claim 13 is now moot.

Furthermore, Examiner correctly points out that Funk teaches, in regards to Claim 18, a method comprising the step of moving a sliding member within an acoustic tube, in regards to Claim 19, a bottom side of the sliding member frictionally engages a top side, in regards to Claim 20, the sliding member returned to its original position by an elastic retention member, in regards to Claim 21, game calls resounding off a sound board, resonating through a cavity formed within a striking plate member, traveling through at least one channel formed within the striking plate member, in regards to Claim 22, game calls resounding off a sound board, resonating through the acoustic tube, and transmitting out from a top side of the acoustic tube, in regards to Claim 24, the sliding member could be moved by a single hand, and in regards to Claim 25, the game call may be operated in any physical orientation. However, Applicant respectfully takes the position that Funk does not teach a method of moving a sliding member within an acoustic tube, "wherein said sliding member is slid over a pyramidal-shaped striking block, and wherein a bottom side of said sliding member frictionally engages a top side of said pyramidal-shaped striking block." See Claim 18, currently amended.

Accordingly, Applicant has incorporated such limitations into amended Claim 18, and consequently, into dependant Claims 20-25. Thus, Applicant respectfully asserts that because underlying

Independent Claim 18 has been distinguished from Funk by the amendment hereinabove, Applicant believes that Examiner's rejection regarding depending Claims 20-25 are now moot.

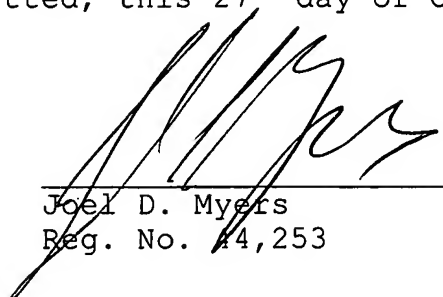
Lastly, Examiner has rejected Claim 14 under 35 U.S.C. 103(a) as being unpatentable over Funk. Applicant respectfully asserts that because Applicant has cancelled Claim 14, and has incorporated the limitations of same, along with the limitations of previous Claim 15, into underlying Independent Claim 12, thereby distinguishing Applicant's invention from Funk, as more fully described above, Applicant believes that Examiner's rejection regarding Claims 14 is now moot.

CONCLUSION

The above-made amendments are to form only and thus, no new matter was added. Applicant respectfully believes that the above-made amendments now place the Claims and application in condition for allowance. Should the Examiner have any further questions and/or

comments, Examiner is invited to telephone Applicant's undersigned Attorney at the number below.

Respectfully submitted, this 27th day of October, 2004.

A handwritten signature in black ink, appearing to read "Joel D. Myers", is written over a horizontal line.

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